IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

SPECIAL CIVIL APPLICATION No 9301 of 2000

For Approval and Signature:

HON'BLE MR.JUSTICE AKSHAY H.MEHTA

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1. Whether Reporters of Local Papers may be allowed to see the judgements? : NO

2. To be referred to the Reporter or not? : NO

3. Whether Their Lordships wish to see the fair copy of the judgement? : NO

4. Whether this case involves a substantial question of law as to the interpretation of the Constitution of India, 1950 of any Order made thereunder? : NO

5. Whether it is to be circulated to the concerned Magistrate/Magistrates,Judge/Judges,Tribunal/Tribunals? : NO

BABUBHAI MOHANBHAI HARIJAN

Versus

STATE OF GUJARAT

Appearance:

1. Special Civil Application No. 9301 of 2000

MS SADHANA SAGAR for Petitioner No. 1

MR MUKESH PATEL A.G.P. for Respondent No. 1

RULE SERVED for Respondent No. 2-3

CORAM : HON'BLE MR.JUSTICE AKSHAY H.MEHTA

Date of decision: 10/03/2004

ORAL JUDGEMENT

The grievance of the petitioner is that though he has been working on part time basis since 9th May, 1990,

with respondent no. 2, his service has not been regularized despite repeated request.

1.1. It appears that the petitioner was appointed as part time sweeper in respondent no. 2 on 9th May, 1990. Initially, he was required to work for three hours in a day at fixed salary of Rs.225=00 per month. On 4th May, 1998, he wrote a letter to respondent no. 2 making a request for regularization of his service. However, no positive response was received from him, despite the fact that the work of petitioner was satisfactory as can be seen from the fact that respondent no. 2 in the month of May, 2000 had issued certificate expressing his total satisfaction with regard to the service rendered by the petitioner. It is stated by Ms. Sadhna Sagar learned advocate for the petitioner at the bar that the petitioner is still in the employment of respondent no. 2.

2. As against that, no affidavit has been filed by the other side and the averments made in the petition remain uncontroverted.

2. The question regarding regularization of service on temporary or part time employee who has put in number of service has been considered and decided by this Court in Special Civil Application No. 8917 of 1998 and its cognate matters by judgment dated 17th February, 2004. In view of the said judgment, this petition deserves to be allowed with the following directions :-

The respondents are, therefore, now required to be directed that irrespective of the Circular of 21st August, 1995, they shall consider the case of the petitioner for appointment on permanent post in Class-IV and if the permanent posts are found vacant, he shall be appointed on the same in accordance with his claim, in the matter of seniority and concerned Regulations and if otherwise, he is not ineligible. Appointment should not be denied on the ground of overage or on the ground that it may amount to giving a back-door entry. This exercise to be carried out as early as possible but in any case not later than 30th May, 2004. If need be, the petitioner can make appropriate representation, which will be considered in light of this judgment and in particular, the direction given therein.

The petition is partly allowed. Rule is made absolute to the aforesaid extent with no order as to costs.

[AKSHAY H. MEHTA, J.]

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